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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

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11 BISCOTTI, INC.,

12 Plaintiff,

13 v.

14 KANDY KISS OF CALIFORNIA, INC.
15 d/b/a Zoey,

16 Defendants.

17 Case No. 3:07-cv-3681 BZ

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19 **REQUEST TO ENTER DEFAULT RE: KANDY
KISS OF CALIFORNIA dba ZOEY**

20 Complaint Filed: July 17, 2007

21 TO: THE CLERK OF THE ABOVE-ENTITLED COURT:

22 Plaintiff, BISCOTTI, INC., hereby requests that the Clerk of the above-entitled Court enter
23 default in this matter against defendant, KANDY KISS OF CALIFORNIA dba ZOEY, on the
24 grounds that said defendant has failed to appear or otherwise respond to the complaint within the time
25 prescribed by the Federal Rules of Civil Procedure. Plaintiff served the complaint on defendant,
KANDY KISS OF CALIFORNIA dba ZOEY, on July 23, 2007, evidenced by the proof of service of
summons on file with this court.

1 The above stated facts are set forth in the accompanying declaration of Rosalyn P. Mitchell,
2 filed herewith.

4 || Dated: September 17, 2007

NIXON PEABODY LLP

By:

GLENN E. WESTREICH
ROSALYN P. MITCHELL
Attorneys for Plaintiff
BISCOTTI, INC.

PROOF OF SERVICE

1 *Biscotti, Inc. v. Kandy Kiss of California, Inc., et al.*
 2 United States District Court, Northern District
 2 Case No. 3:07-cv-3681 BZ

3 I, the undersigned, certify that I am employed in the City and County of San Francisco,
 4 California; that I am over the age of eighteen years and not a party to the within action; and that my
 business address is Nixon Peabody LLP, One Embarcadero Center, 18th Floor, San Francisco, CA
 94111-3600.

5 On September 17, 2007, I served the following document(s):

6 **REQUEST TO ENTER DEFAULT RE: KANDY KISS OF CALIFORNIA**
 7 **dba ZOEY**

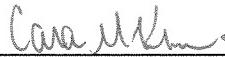
8 on the parties stated below, through their attorneys of record, by placing true copies thereof in sealed
 envelopes addressed as shown below by the following means of service:

- 9 X: By First-Class Mail — I am readily familiar with the firm's practice for collection and
 10 processing of correspondence for mailing. Under that practice, the correspondence is
 11 deposited with the U.S. Postal Service on the same day as collected, with first-class postage
 thereon fully prepaid, in San Francisco, CA, for mailing to the office of the addressee
 following ordinary business practices.
- 12 : By Personal Service — I caused each such envelope to be given to a courier messenger to
 13 personally deliver to the office of the addressee.
- 14 : By Overnight Courier — I caused each such envelope to be given to an overnight mail service
 15 at San Francisco, CA, to be hand delivered to the office of the addressee on the next business
 day.
- 16 : By Facsimile — From facsimile number 415-984-8300, I caused each such document to be
 17 transmitted by facsimile machine, to the parties and numbers listed below, pursuant to
 Rule 2008. The facsimile machine I used complied with Rule 2003(3) and no error was
 18 reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a
 transmission record of the transmission, a copy of which is attached to the original of this
 declaration.

19 Addressee(s)

21 David Bonenfant 16055 Ventura Blvd., Suite 510 Encino, CA 91436	22 Attorneys for Defendant Kandy Kiss of California, dba Zoey
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23 I declare under penalty of perjury that the foregoing is true and correct. Executed on
 24 September 17, 2007, at San Francisco, California.

25 
 26 Cara M. Kim